

APPEAL NO. 022682
FILED NOVEMBER 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 11, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits for the eighth quarter. The claimant appeals that determination on sufficiency grounds. The respondent (carrier) responds that the claimant's appeal is untimely and, in the alternative, urges affirmance.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, and if it is received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Section 410.202(a) and (d); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)). In his appeal, the claimant states that he received the hearing officer's decision on September 18, 2002. To be timely, the claimant's appeal must have been mailed on or before October 9, 2002, and received by the Commission not later than October 16, 2002. The claimant's appeal indicates that it was mailed to the Commission by certified mail on October 3, 2002. That copy of the appeal was not received by the Commission. On October 21, 2002, a copy of the claimant's appeal was faxed to the Commission and the appeal was stamped as received on that date. That document contains two receipts for certified mail with one addressed to the carrier and one addressed to the Commission. It also contains a green card showing delivery to the carrier on October 7, 2002; however it does not include a green card showing delivery to the Commission. Thus, the appeal is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **PROTECTIVE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**VAN WAGNER COMPANY
1100 JUPITER ROAD, SUITE 121
PLANO, TEXAS 75074.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge